

The opinion in support of the decision being entered today was *not* written for publication and is *not* binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte STEPHAN MICHAEL REUNING and NICOLE L. BAKOS

Appeal 2006-0580
Application 09/911,024
Technology Center 3600

Decided: June 25, 2007

Before KENNETH W. HAIRSTON, ROBERT E. NAPPI, and
ALLEN R. MACDONALD, *Administrative Patent Judges*.

HAIRSTON, *Administrative Patent Judge*.

ON REQUEST FOR REHEARING

Appellants have requested a rehearing of our decision dated November 30, 2006, wherein we affirmed the obviousness rejections of claims 3 through 66 because Appellants did not present any patentability arguments for these claims.

Appellants' argument (Request 2) that a Rule 131 Declaration submitted early in the prosecution of this application to antedate the

Mossberg publication shows the patentability of claims 3 to 66 is without merit because the declaration was not presented with the Brief, and the Examiner never withdrew Mossberg as a reference of record.

Appellants' argument (Request 2) that "Appellant's APPEAL BRIEF explained how the Examiner has already made an administrative agency fact-finding that the invention of claims 3 to 66 exhibits patentable synergy *vis* the prior art of record" is likewise without merit because the referenced statements by the Examiner never discussed any "patentable" synergy of the invention set forth in claims 3 to 66.

Appellants' arguments (Request 2 and 3) that they presented arguments in the Brief explaining the nonobviousness of claims 3 to 66 are equally without merit since Appellants never explained how the limitations of the noted claims are patentable over the combined teachings of the applied references. Arguments pointing out the individual shortcomings in each of the applied references are not effective in overcoming a *prima facie* case of obviousness.

Appellants' request for rehearing has been granted to the extent that our decision has been reconsidered, but such request is denied with respect to making any modifications to the decision.

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No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a)(1)(iv).

REHEARING

DENIED

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